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July 14, 2006

Faxed Only to: (206) 622-7485

James Dickens
Miller Nash LLP
4400 Two Union Square
601 Union Street
Seattle, WA 98101-2352

Re: Defendants' Responses to Plaintiff's Third Requests for Production of Documents Dated May 26, 2006
Case: *Johnson, Myrna v Fred Meyers [23003]*
Client: Myrna Johnson
CLF: 23003
D/O: March 18, 2002

Dear Jim:

On July 11, 2006 we received Defendants' Responses to Plaintiff's Third Requests for Production of Documents Dated May 26, 2006. In response to our RFP No. 25, you provided document nos. 202414 – 202438G. The documents fall within two categories: (1) "Office Vision" emails relating to complaints regarding Jaime San Miguel's management, and (2) hand-written notes which appear to both memorialize and perhaps comment upon those same complaints. Neither the author nor the creation dates of the hand-written notes are identified.

Succinctly, these documents should have been produced much earlier in this litigation. On January 5, 2005, Plaintiff's First Requests for Production of Documents was served on your office by Ms. Johnson's prior counsel. I asked in early January of 2006 that you respond to that production request and you did so on March 22, 2006. In RFP No. 5, Fred Meyer was asked to: *"Please produce all statements...referring, relating to or pertaining to any fact or issue in this matter or the conduct that is the subject of this litigation."* You stated that any statement had been or would be provided with those responses.

Similarly, in RFP No. 19, Fred Meyer was requested to: *"Produce any document referring, relating or pertaining to verbal or written complaints or expressions of concern from any employee of the Juneau Store regarding San Miguel from 2000 to present."* Your answer was "there are none."

ATTACHMENT B

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Finally, in 30(b)(6) depositions, when I was attempting to obtain copies of prior Office Vision emails from this time period, I was specifically told under oath that there were no other Office Vision emails related to this matter or available as they had been destroyed in the migration to a Lotus Notes system.

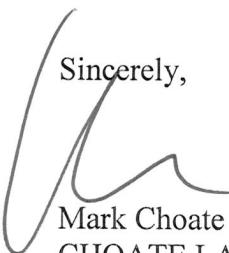
For these reasons, document nos. 202414 – 202438G, received on July 11, 2006 are a surprise. They deal with complaints about Jaime San Miguel’s management style, absenteeism, discipline, treatment of female subordinates, store “tours”, recovery and other issues directly related to the disciplinary event which we allege was a constructive discharge of our client.

In the same vein, the extensive hand-written notes by an unknown author describing complaints about San Miguel are clearly responsive to both our earlier discovery and the facts at issue in this case. They should have been produced earlier, in time for us to address their content with the defendants and other Fred Meyer management personnel who have been deposed.

While I’m sure their earlier omission was unintentional, I don’t think their late production is justified by the argument that we didn’t ask specifically for them earlier. We have sought exactly this type of information since I began discovery in this matter. These documents raise a number of questions which I’m certain will require the reopening of discovery, at least for the limited purposes of inquiring into their content, the events which form the basis for these complaints, the author and approximate creation dates of the hand-written notes and any action taken in regards to these. We’ll of course also need to authenticate them in some fashion.

I know you’re going into trial and I will be out the next three weeks. Nonetheless, we’re going to need to either agree to extend discovery for a reasonable amount of time to address these late-produced documents or I’ll have to ask the Court for relief. Please let me know your thoughts on this. I’ll be in Seattle from Monday to Wednesday, July 17-19 at the ATLA Convention. If you’ll have your legal secretary give my office a call, they can set up a time for us to talk.

Sincerely,


Mark Choate
CHOATE LAW FIRM, LLC

cc: Client